

**DEPARTMENT OF LOCAL GOVERNMENT FINANCE
100 NORTH SENATE AVENUE
IGC-N, ROOM N1058
INDIANAPOLIS, INDIANA 46204**

IN THE MATTER OF THE REQUEST)	
OF BRAZIL TOWNSHIP, CLAY COUNTY)	
FOR APPROVAL OF A TOWNSHIP)	
ASSISTANCE LOAN IN THE AMOUNT)	No. 08-044
OF \$40,000)	

ORDER

A petition was filed by Brazil Township, Clay County ("Township") for approval of the issuance of a township assistance emergency loan pursuant to IC 12-20-24 in the principal amount of forty thousand dollars (\$40,000) for a term not to exceed two (2) years. The Department of Local Government Finance ("Department") has reviewed the petition and all other matters pursuant to IC 6-1.1-18.5-8 and IC 12-20-24.

Law

A township trustee is required to notify the township board that the township assistance account will be exhausted before the end of a fiscal year. IC 12-20-24-1(a).

After receiving such notice from the trustee, the township board is required to appeal to the Department for the right to borrow money on a short term basis to fund township assistance services in the township. In the appeal the township board must do the following:

- (1) Show that the amount of money contained in the township assistance account will not be sufficient to fund services required to be provided within the township by this article.
- (2) Show the amount of money that the township board estimates will be needed to fund the deficit.
- (3) Indicate a period, not to exceed five (5) years, during which the township would repay the loan. IC 12-20-24-1(b).

If upon appeal the Department determines that a township board should be allowed to borrow money, the Department must order the trustee to borrow the money from a financial institution on behalf of the township board and to deposit the money borrowed in the township's township assistance account. IC 12-20-24-5(a).

If upon appeal the Department determines that the township board should not be allowed to borrow money, the township board may not do so for that year. IC 12-20-24-5(b).

If a loan is approved, the county commissioners or the Department must determine the period during which the township must repay the loan. However, the period may not exceed five (5) years. IC 12-20-24-6.

The county commissioners or the Department may not do any of the following:

(1) Approve a request to borrow money unless it is determined the township assistance account will be exhausted before the account can fund all township obligations.

(2) Recommend or approve a loan that will exceed the estimated amount of the deficit. IC 12-20-24-7.

If a township board:

(1) appeals *after* August 1 for permission to borrow money;

(2) receives permission from:

(A) the county commissioners; or

(B) the Department;

to borrow money; and

(3) borrows money in the year of the appeal;

the township board levies a property tax beginning in the second succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year. IC 12-20-24-8(b).

The property taxes levied must be retained by the township trustee and applied by the township trustee to retire the debt. IC 12-20-24-8(c).

Findings of Fact

The Department FINDS the following:

On August 8, 2008, the Township sent a petition to the Department requesting a hearing on a request for a loan of \$40,000 to provide Township Assistance. *Petition to Department*. The Local Property Tax Control Board Hearing ("Hearing") was scheduled for September 25, 2008. *Letter to Brazil Township Trustee, August 28, 2008*.

On September 18, 2008 the Brazil Township Trustee ("Trustee") was advised by Department staff that the forms and the documentation provided to the Department were not adequate for a decision to be rendered. The Department then instructed the Trustee to bring the necessary documentation to the Hearing. *McLean Phone Call to Brazil Township Trustee*.

On September 25, 2008 the Trustee appeared at the Local Property Tax Control Board ("Control Board") Hearing requesting the approval. The Trustee provided no additional documentation as to the need for township assistance. At the Hearing, the members of the Control Board instructed the Trustee to provide the 2008 township budget and Control Board Hearing Information Sheet, so the Control Board could have a clearer picture of the township's financial situation. Mr. John Stafford of the Control Board asked the Trustee if they were a member of the Indiana Township Association to which the Trustee responded they were. Mr. Stafford suggested the Trustee seek the Association's advice on preparing the necessary documentation for the township assistance loan. The president of

the Control Board, Mr. Dave Christian, called for a vote on deferring this issue until the Department was provided the requested information -- the 2008 budget and the Hearing Information Sheet. The motion carried by a vote of 7 to 0. *Local Government Property Tax Control Board Meeting Minutes, September 25, 2008*, http://www.in.gov/dlgf/files/LGPTCB_9-25-08.pdf.

On October 8, 2008 the Department mailed to the Trustee a letter asking for the documentation necessary to render a decision and explained the nature of the necessary documentation. *Letter to Brazil Township Trustee, October 8, 2008*.


On October 13, 2008, the Department received a fax from Trustee explaining that the Township does not have the required documents, and is unaware of when the documentation will be available. *Fax from Brazil Township Trustee, October 13, 2008*.

The Trustee and township board failed to satisfactorily demonstrate to the Department -- with the proper documentation -- the following as required by the law:

- (1) The amount of money contained in the township assistance account will be insufficient to fund services required to be provided within the township.
- (2) The amount of money that the township board estimates will be needed to fund the deficit.
- (3) Indicate a period, not to exceed five (5) years, during which the township would repay the loan.

WHEREFORE, for the reasons stated above, the township assistance loan request for Brazil Township, Clay County, is hereby **DENIED**. This denial is limited to the projects described in file 08-044 as presented to the Control Board and the Department for consideration.

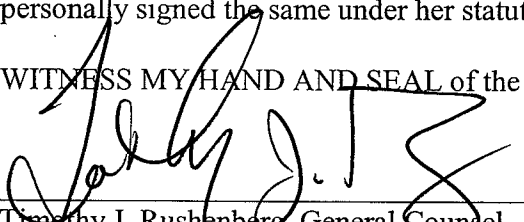
Dated this ____ day of October, 2008.


Cheryl A.W. Musgrave, Commissioner
Department of Local Government Finance

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

I, Timothy J. Rushenberg, General Counsel for the Department of Local Government Finance, hereby certify that the above is an order of the Commissioner of the Department of Local Government Finance made this date in the above-entitled matter and that the Commissioner has personally signed the same under her statutory authority.

WITNESS MY HAND AND SEAL of the Commissioner on this the 22nd day of October, 2008.


Timothy J. Rushenberg, General Counsel
Department of Local Government Finance